IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 929 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VADODARA DISTRICT PANCHAYAT & 1 - Petitioner(s)
Versus
R B KOLI - Respondent(s)

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Appearance :
MR HS MUNSHAW for Petitioner(s) : 1 - 2.
MR NK MAJMUDAR for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 03/05/2006

ORAL JUDGMENT

1.The petitioners have challenged the order dated 17th September 1999 passed by the Gujarat Civil Services Tribunal. The petitioners are the Vadodara District

Panchayat and its officer. Respondent herein was engaged as Vaccinator at the relevant time. The respondent was assisting the family planning operations for which he was receiving some incentive amount. A camp for the said purpose was held on 17th March, 1988 and number of operations were performed. The Administration, however, had doubt about the claims of 19 operations which they thought were bogus. A chargesheet was, therefore, issued against the respondent on 4.10.99.

2. The Inquiry Officer found that the charges are proved. He submitted his report in March 1992. The Disciplinary Authority thereupon passed order on 15.4.95 imposing penalty of reverting the respondent to the lower scale for a period of five years with permanent effect. The respondent challenged the same before the Appellate Authority. The Appeal was, however, rejected. The respondent, therefore, approached the Civil Services Tribunal which allowed the appeal by the impugned order.

3. By a separate detailed order passed today, I have allowed Special Civil Application No.930 of 2000 filed by the District Panchayat against the very same order of the Tribunal. The said case pertained to an

Auxiliary Nurse-cum-Midwife who was ordered to be compulsorily retired from service by way of punishment. For the same reasons, this petition is also required to be allowed. Reasons stated in Special Civil Application No.930/2000 are therefore not being reproduced.

4. Additionally I find that there was sufficient evidence on record to permit the Inquiry Officer to hold the charges against the respondent proved. The Inquiry Officer and the Disciplinary Authority had given cogent reasons to conclude that the charges are validly proved. The employees had not maintained proper record of the operations performed. Examining Dr.Patel as defence witness would be of no use since the said doctor also had not maintained any record. Therefore, when the authorities on the available material on record found that the respondent herein had put up false claim of incentive with respect to certain operations which were found to be bogus, the Tribunal ought not to have interfered with the same. Unless the conclusions were perverse, it was not open for the Tribunal to interfere with the same.

5. For the above reasons, I find that the petition is required to be and is hereby allowed. The impugned order of the Tribunal is quashed. Rule is made absolute

accordingly with no order as to costs.

(Akil Kureshi, J.)

(vjn)